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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,254	03/27/2001	Naohito Takae	1614.1155	7682

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,254

Applicant(s)

TAKAE ET AL.

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8,10,12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,10,12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 19 January 2006 ("Remarks") have been fully considered but they are not persuasive. Applicant asserts that claim 1 patentably distinguishes over the prior art for two reasons: (1) there is no motivation to combine the system of Susskind (of record) with the email-based notice function of Maissel (of record) (Remarks, p. 6); and, (2) the cited references fail to teach or suggest collecting alteration information that is unknown to the user and altering the control information based on permission sent by the user responding to an email message sent to a mobile communication terminal of the user (Remarks, p. 7). The remaining claims pending in the application include limitations similar to those of claim 1. Applicant submits that these claims patentably distinguish over the prior art for the same reasons asserted with respect to claim 1 (Remarks, p. 7).

Regarding claim 1, Applicant argues that because a user modifies programmed recording information in Susskind, there is no need to send e-mail to the user to ask for the user's determination and permission (Remarks, p. 6). This argument requires two assumptions: (a) permission, as claimed, follows from an explicit request for the same; and, (b) the e-mail message itself contains such a request for permission. Claim 1, however, is not so limited. As to (a), an instruction to carry out a task, issued by a user, constitutes at least permission by said user to carry out said task—regardless of whether the permission was ever requested. As to (b), the claim requires that an e-mail message be sent to a mobile terminal of a user; that the terminal of the user send permission to alter the control information; and, that the user be responding to the message. The claim does not require that the e-mail message include a request for permission. As discussed in greater detail below, Susskind and Maissel, together, teach the claimed subject matter.

Control information, as recited in Applicant's claim 1, is met by "[t]he values" for the "View Programs Scheduled for Recording" discussed at paragraph [0035] of Susskind. Alteration information,

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as claimed, is met by “values for View Program Listings . . . originated by the Television Listing Server 25, . . .” also discussed at [0035] of Susskind. Alteration information, i.e., a listing of television programs scheduled for broadcast, is unknown to the user when originated from listing server 25. Susskind therefore teaches receiving alteration information unknown to a user (i.e., receiving values for “View Program Listings”). Susskind also teaches producing control information in compliance with an instruction from the user (i.e., creating values for “View Programs Scheduled for Recording”); and, altering the control information based on the alteration information in response to permission sent from the mobile terminal (i.e., responsive to instructions sent by the user terminal—altering the scheduled recording values by adding, removing, or otherwise editing a scheduled recording values).

Maissel teaches sending users alerts or reminders to record programs matching the user’s program preferences ([0183] and [0195]). Such alerts/reminders are generated by filtering received program listings with the user’s preferences criteria ([0172]). In addition, Maissel indicates that the user responds to such alerts with an appropriate action ([0219]). The e-mail notification taught in Maissel thus simplifies the user’s burden of selecting programs to record by automatically suggesting particular programs the user is likely to prefer. Thus, Maissel teaches sending e-mail notifications to a user’s mobile terminal. The notifications comprise suggestions that the user instruct (i.e., permit) alteration of control information (i.e., scheduled recording information) based on alteration information (i.e., program listings filtered for preferred programs). Furthermore, Maissel teaches that such e-mail notifications are advantageous, as they provide an additional convenience to the user.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the proposed modification. Furthermore, the proposed combination teaches the amended limitations of claim 1. As discussed above, alteration information (i.e., listing of programs) is unknown to the user. In addition, the combination teaches that the user may instruct (i.e., permit) the system to schedule a particular program for recording in response to the message suggesting the same.

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Accordingly, claim 1 is obvious in view of the prior art and therefore unpatentable under 35 U.S.C. § 103(a). Applicant offers no arguments as to the patentability of claims 2–4, 6, 8, 10, 12, and 14 beyond those submitted with respect to claim 1. As such, these claims fail to patentably distinguish over the prior art as discussed above and indicated in the claim rejections, below.

2. Applicant's failure to adequately traverse facts Officially noticed in the prior Office action is treated as an admission of the facts so noticed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 6, 8, 10, 12, and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Susskind (of record) in view of Maissel (of record).

Regarding **claims 1, 6, 8, 10, 12, and 14**, Susskind discloses a control information management system (fig. 2), corresponding method, corresponding computer readable medium storing procedures comprising a program, and corresponding server that collectively manages control information (scheduled recording reservations, ¶0035-6) for controlling a control object (recording hardware as disposed in recording device 20, ¶0029), the control information management system comprising (as applied to aforementioned corresponding forms):

a control information producing unit (Internet Remote Control Host Server 24) that produces the control information (scheduled recording settings) in compliance with an instruction from a user (¶0012,6);

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a control information alteration unit (24) that collects alteration information unknown to the user (new program schedule information, received from 25, ¶0035) for altering the control information (i.e., program information, as periodically updated, is used as the basis for establishing record reservations, i.e., control information, where adding, removing, or editing by a user of said user's scheduled recording list, ¶0036, constitutes altering the control information), and alters the control information (i.e., scheduled recordings) in accordance with the alteration information in response to permission sent from a mobile communications terminal of the user (21, ¶0031,5-6);

a control information transmission unit (24) that transmits the control information (¶0038) via a network (Internet 22, described in reference to Internet 11 and analogous components, fig. 1, ¶0031);

a control information reception unit (20) that receives the transmitted control information (¶0038);

a control unit (20) that selects a control object (i.e., recording hardware and associated components as disposed in recording device 20, ¶0029) corresponding to the received control information, and controls the selected control object in accordance with the received control information (¶0049, as applied to analogous elements in fig. 2).

Susskind fails to disclose sending a message via email to the mobile communication terminal of the user, and that the user responds to the message.

In an analogous art, Maissel discloses sending a message (alert to remind viewer to record a program, ¶0195, where the alert is a component of the user's customized program guide, ¶0150) via email (customized program guide delivered to user via email, ¶0209) to a mobile communications terminal of a user (¶0211), for the benefit of automatically apprising the user of upcoming programs that may be of interest to the user (¶0183).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Susskind to include sending a message via email to the mobile

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communication terminal, as taught by Maissel, for the benefit of apprising the user of newly scheduled or previously overlooked upcoming programs that may be of interest to the user so that the user may respond by scheduling said programs for future recording, thus providing a more user-friendly remote-access DVR system.

As for **claims 2 and 3**, Susskind and Maissel together disclose the method as described in claim 1, wherein altering the control information comprises:

collecting alteration information (see discussion of Susskind with respect to rejection of claim 1, above);

notifying the user that the control information needs to be altered based on the collected alteration information (see discussion of Maissel with respect to rejection of claim 1); and

altering the control information upon receipt of the permission from the user (see discussion of Susskind with respect to rejection of claim 1, above).

Susskind and Maissel fail to expressly disclose requesting permission to alter the control information.

Official notice is taken of the fact that it is well known in the art to request permission to alter/update scheduled recording information (i.e., prompting a user to confirm the scheduling of a future recording prior to entering the request into a recording schedule and wherein confirming acceptance of said reservation constitutes confirmation that said control information be transmitted to said control object, in order for said reservation to be carried out), thus providing the user an opportunity to verify the accuracy of future recording request prior to storing the record request in memory and reducing the likelihood that the user will mistakenly schedule unwanted future recordings.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Susskind and Maissel to include requesting permission to alter the control information for the benefit of providing a more user-friendly scheduled recording interface.

As for **claim 4**, Susskind and Maissel together disclose the method as claimed in claim 1. However, Marsh fails to disclose the step of notifying the user of an abnormal state of the control object, when no control information reception acknowledgement is sent from the control object after the transmission of the control information to the control object.

Official notice is taken of the fact that it is well known in the art to notify a user when a device to be controlled fails to respond to control information in an expected manner for the purpose of informing the user that a desired task may not be carried out due to technical problem and thus enabling the user to take appropriate action.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Susskind and Maissel to include notifying the user of an abnormal state of the control object, when no control information reception acknowledgement is sent from the control object after the transmission of the control information to the control object, for the benefit of providing a more user-friendly scheduled recording interface.

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Conclusion


5. Applicant is advised to note the recent change in Art Unit designation.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M. Lambrecht
Examiner
Art Unit 2623

CML


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600